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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,765	02/26/2002	Gordon J. Kocur	S63.2-10259	3493
490	7590	06/09/2004	EXAMINER	
VIDAS, ARRETT & STEINKRAUS, P.A. 6109 BLUE CIRCLE DRIVE SUITE 2000 MINNETONKA, MN 55343-9185			O CONNOR, CARY E	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/084,765

Applicant(s)

KOCUR

Examiner

Cary E. O'Connor

Art Unit

3732



– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 30-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 30-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 30, 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Euteneur et al (5,989,280) in view of Ding (5,899,935). Euteneur shows an expandable stent 17 comprising an expandable framework and at least one stent retaining segment 60 disposed about the framework and constructed to fail in the body by degradation of at least a portion of the band. The stent retaining segment maintains the framework in a less than fully expanded configuration and can have a narrowing that acts as a fatigue point (col. 7, lines 39-41) or has at least one weakened region (perforations) 64 to facilitate failure (col. 7, lines 52-55). Euteneur does not disclose that at least one of the retaining segments having a coating thereon comprising at least one therapeutic agent which. Ding shows a stent which may have restraining means thereon (paragraph bridging columns 3 and 4) and may further include a therapeutic agent (column 4, lines 3-8) which is released upon degradation of the retaining means. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a coating comprising a therapeutic agent on the restraining segments of Euteneur, in view of Ding, in order to enhance the therapeutic properties of the stent. As to claims 34 and 37, note that the therapeutic agent may comprise a anti-thrombic agent (column 4,

lines7-8). As to claims 35 and 38, note that the therapeutic agent may comprise an anti-coagulant (column 4, line 4).

Claims 31, 32, 39-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solar (5,403,341) in view of Ding (5,899,935). Solar shows an expandable stent 10 comprising an expandable framework and at least one biostable stent retaining segment 40 disposed about the framework and constructed to fail in the body due to a pattern of perforations (see column 8, lines 20-24). Solar does not disclose that at least one of the retaining segments having a coating thereon comprising at least one therapeutic agent. Ding shows a stent which may have restraining means thereon (paragraph bridging columns 3 and 4) and may further include a therapeutic agent (column 4, lines 3-8) which is released upon degradation of the retaining means. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a coating comprising a therapeutic agent on the restraining segments of Solar, in view of Ding, in order to enhance the therapeutic properties of the stent. As to claims 40 and 43, note that the therapeutic agent may comprise an anti-thrombic agent (column 4, lines7-8). As to claims 41 and 44, note that the therapeutic agent may comprise an anti-coagulant (column 4, line 4).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 30-44 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Amundson (5,779,732) discloses retaining segments coated with a therapeutic agent (column 4, lines 45-46).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cary E. O'Connor whose telephone number is 703-308-2701. The examiner can normally be reached on M-F 7:00am to 4:00pm.

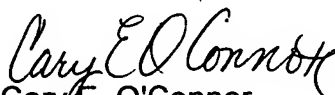
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on 703-308-2582. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

  
Cary E. O'Connor  
Primary Examiner  
Art Unit 3732

ceo  
May 25, 2004